

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re REFCO INC. SECURITIES LITIGATION

Case No. 07-MD-1902 (JSR)

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This Document Relates to:

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KENNETH M. KRYS, et al.,

Case No. 08-CV-3065 (JSR)

Case No. 08-CV-3086 (JSR)

Plaintiffs, :

-against-

**ORAL ARGUMENT REQUESTED**

CHRISTOPHER SUGRUE, et al.,

Defendants. :

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KENNETH M. KRYS, et al.,

Case No. 10-CV-3594 (JSR)

Plaintiffs, :

-against-

DEUTSCHE BANK SECURITIES INC., et al.,

Defendants. :

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**NOTICE OF MOTION FOR SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that, upon (1) the Memorandum of Law of Credit Suisse Securities (USA) LLC, Merrill Lynch, Pierce, Fenner & Smith, Incorporated, as Successor-by-Merger to Banc of America Securities LLC, and Deutsche Bank Securities Inc. in Support of Motion for Summary Judgment; the accompanying Rule 56.1 Statement; and the Declaration of Philip D. Anker, dated December 17, 2012 (and exhibits thereto); as well as (2) Moving Defendants' Joint Memorandum of Law Addressing Common Issues in Defendants' Motions for Summary Judgment; the accompanying Joint Rule 56.1 Statement; and the Declaration of Luke

Connelly, dated December 17, 2012 (and exhibits thereto); and at a time and location to be determined, defendants Credit Suisse Securities (USA) LLC, Merrill Lynch, Pierce, Fenner & Smith, Incorporated, as successor-by-merger to Banc of America Securities LLC, and Deutsche Bank Securities Inc. (the “Banks”) will move this Court for an order dismissing Count XXII of the Amended Complaint in *Krys v. Sugrue* and Count IV of the Complaint in *Krys v. Deutsche Bank* pursuant to Rule 56 of the Federal Rules of Civil Procedure, and granting such other and further relief as the Court deems just and proper.

Pursuant to the Special Masters' Order dated November 14, 2012, Plaintiffs' opposition to the motion (if any) is due on January 21, 2013 and the Banks' reply (if any) is due on January 31, 2013.

Dated: New York, New York  
December 17, 2012

**WILMER CUTLER PICKERING  
HALE AND DORR LLP**

By: /s/ Philip D. Anker

Philip D. Anker  
Lori A. Martin  
Peter J. Macdonald  
Jeremy S. Winer  
Ross E. Firsenbaum

7 World Trade Center  
250 Greenwich Street  
New York, New York 10007  
Tel: (212) 230-8800  
Fax: (212) 230-8888

*Attorneys for Defendants Merrill Lynch,  
Pierce, Fenner & Smith, Incorporated, as  
successor-by-merger to Banc of America  
Securities LLC and Credit Suisse Securities  
(USA) LLC*

Dated: New York, New York  
December 17, 2012

**LINKLATERS LLP**

By: /s/ James R. Warnot, Jr.  
James R. Warnot, Jr.  
Ruth E. Harlow  
Robert H. Bell

1345 Avenue of the Americas  
New York, New York 10105  
Tel: (212) 903-9000

*Attorneys for Defendant Deutsche Bank  
Securities Inc.*